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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/707,967

01/28/2004

Jack Cash JR.

001-295

1966

29569

7590

11/06/2007

FURR LAW FIRM  
2622 DEBOLT ROAD  
UTICA, OH 43080

EXAMINER

O'CONNOR, CARY E

ART UNIT

PAPER NUMBER

3732

MAIL DATE

DELIVERY MODE

11/06/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/707,967

Applicant(s)

CASH, JACK

Examiner

Cary E. O'Connor

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Allowable Subject Matter***

The indicated allowability of claims 21-38 is withdrawn in view of the newly discovered reference(s) to Willers et al (DE10164044). Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21, 22, 25, 31, 32 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willers et al (DE10164044) in view of Scalise et al (5,812,678).

Willers discloses a dental device comprising a scaler attached to a pick-up through a connection. The pick up is connected to an amplifier which is connected to an audio production device (loudspeaker or headphones). (see paragraph 0019 and the claims).

Willers only discloses that the pick-up is a transducer. Scalise discloses a sound detection device wherein in the pick-up is a transducer 182 in the form of a condenser microphone with a receptacle 144 for connection of a jack. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the pick-up transducer of Willers in the form of a condenser microphone with a receptacle, as taught by Scalise, since a condenser microphone is a common form of an electro-audio transducer and to facilitate connection of the pick-up to the scaler.

Claims 27, 28 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willers et al (DE10164044) in view of Scalise et al (5,812,678) as applied to claim 21 above, and further in view of Berube-Lauziere et al (2003/0143510). Willers does not disclose a power source connected to the device. Berube-Lauziere shows a dental device comprising a dental instrument A attached to a pick-up means 12 through a connecting means 18, 20, where the pick-up means is connected to an amplifier 58, which is connected to an audio production means 56. Berube-Lauziere discloses that the device may be connected to a outside power supply 48 or is powered by a battery (paragraph 0028, lines 1-6). It would have been obvious to one of ordinary skill in the art at the time the invention was made connect the device of Willers and Scalise to a power supply such as a battery, as taught by Berube-Lauziere, because the device needs to be connected to some kind of power supply to work.

Claims 23, 24, 29, 30, 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willers et al (DE10164044) in view of Scalise et al (5,812,678) as applied to claim 21 above, and further in view of Moore (2004/0077974). Willers does not disclose that the amplifier has a volume control or the connections between various elements are wireless. Moore shows a laparoscopic detection device that emits an audible signal wherein the amplifier/speaker 32 includes a volume control means 34. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the amplifier and/or audio production means of Willers with a volume control means, as taught by Moore, so that the volume can be adjusted. Moore also teaches that the device is wireless (paragraph 0011). It would have been obvious to

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one of ordinary skill in the art at the time the invention was made to make the device of Willers wireless, as taught by Moore, in order to provide hands-free convenience and an enhanced diagnostic tool.

Claims 26 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willers et al (DE10164044) in view of Scalise et al (5,812,678) as applied to claim 21 above, and further in view of Siemons (2005/0058962). Willers does not disclose that the device has a clip. Siemons shows a dental device which is small and portable. The device may include a clip (paragraph 26). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the device of Willers with a clip, as taught by Siemons, so that the casing may be held in a location that is convenient for the dentist.

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Willers et al (DE10164044) in view of Scalise et al (5,812,678), Moore (2004/0077974) and Berube-Lauziere et al (2003/0143510). Willers discloses a dental device comprising a scaler attached to a pick-up through a connection. The pick up is connected to an amplifier which is connected to an audio production device (loudspeaker or headphones). (see paragraph 0019 and the claims). Willers only discloses that the pick-up is a transducer. Scalise discloses a sound detection device wherein in the pick-up is a transducer 182 in the form of a condenser microphone with a receptacle 144 for connection of a jack. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the pick-up transducer of Willers in the form of a condenser microphone with a receptacle, as taught by Scalise, since a condenser

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microphone is a common form of an electro-audio transducer and to facilitate connection of the pick-up to the scaler. Willers does not disclose that the amplifier has a volume control or the connections between various elements are wireless. Moore shows a laparoscopic detection device that emits an audible signal wherein the amplifier/speaker 32 includes a volume control means 34. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the amplifier and/or audio production means of Willers with a volume control means, as taught by Moore, so that the volume can be adjusted. Willers does not disclose a power source connected to the device. Berube-Lauziere shows a dental device comprising a dental instrument A attached to a pick-up means 12 through a connecting means 18, 20, where the pick-up means is connected to an amplifier 58, which is connected to an audio production means 56. Berube-Lauziere discloses that the device may be connected to a outside power supply 48 or is powered by a battery (paragraph 0028, lines 1-6). It would have been obvious to one of ordinary skill in the art at the time the invention was made connect the device of Willers and Scalise to a power supply such as a battery, as taught by Berube-Lauziere, because the device needs to be connected to some kind of power supply to work.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cary E. O'Connor whose telephone number is 571-272-4715. The examiner can normally be reached on M-Th 7:00-3:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on 571-2724964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Cary E. O'Connor  
Primary Examiner  
Art Unit 3732

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